

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MAY 24, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 452

Introduced by Assembly Member Ma

February 15, 2011

~~An act to amend Section 637.7 of the Penal Code, relating to privacy.~~
An act to amend Section 11837.4 of the Health and Safety Code, and to amend Sections 13352, 23542, 23548, 23552, 23556, 23562, and 23568 of the Vehicle Code, relating to driving under the influence.

LEGISLATIVE COUNSEL'S DIGEST

AB 452, as amended, Ma. ~~Electronic tracking devices: invasion of privacy.~~ *Driving under the influence: licensed and approved drug and alcohol programs.*

Existing law requires a court to order a person, who is at least 18 years of age and who is convicted of a first violation of a driving-under-the-influence (DUI) offense, as specified, to attend a DUI program, including specified alcohol or drug education and counseling services, and provides for the licensing of those programs by the State Department of Alcohol and Drug Programs.

This bill would prohibit any DUI program activities from (1) being conducted through a program that is not so licensed and (2) being completed through an online, distant learning, or remote learning method. The bill would further prohibit any credit from being given for any DUI program activities completed through an unlicensed program or through an online, distant learning, or remote learning method.

~~Existing law prohibits a person or entity from using an electronic tracking device to determine the location or movement of a person. This prohibition does not apply when the owner of a vehicle has consented to the use of the electronic tracking device with respect to the vehicle, or to a law enforcement agency.~~

~~This bill would recast this provision to prohibit a person or entity from using, or knowingly employing or engaging a 3rd party to use, an electronic tracking device to determine the location or movement of a person without the consent of that person.~~

~~This bill would additionally provide that this prohibition does not apply to the parent or legal guardian of a minor child or conservator of a legally incompetent person for purposes of tracking that minor or incompetent person, except as specified. The bill would also provide that this prohibition does not apply to the use of an electronic tracking device by a commercial service provider, as provided, only if the provider has given a specified notice regarding the use of the device. The bill would prohibit the provider from selling, distributing, transferring, or releasing any information gathered or collected to any 3rd party or the person utilizing the service, except as specified.~~

~~Existing law defines an electronic tracking device as any device attached to a vehicle or other moveable thing that reveals its location or movement by the transmission of electronic signals.~~

~~This bill would instead define an electronic tracking device as any device attached to, placed on, or inserted into, a vehicle, wireless telephone, or other movable thing that reveals its location or movement by the transmission of electronic or radio signals, including, but not limited to, a global positioning system.~~

~~The bill would also prohibit a person from requiring, coercing, or compelling any other individual to consent to undergo the subcutaneous implanting of an electronic tracking device, as specified.~~

~~Existing law provides that a violation of these provisions is a misdemeanor, punishable by imprisonment in a county jail for not more than 6 months, by a fine not to exceed \$1,000, or both that fine and imprisonment.~~

~~This bill would provide that a violation of these provisions is a misdemeanor, punishable by imprisonment in a county jail for not more than 6 months, by a fine not to exceed \$2,500, or by both that fine and imprisonment.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 11837.4 of the Health and Safety Code*
2 *is amended to read:*

3 11837.4. (a) ~~No~~ A program, regardless of how it is funded,
4 ~~may~~ *shall not* be licensed unless all of the requirements of this
5 chapter and of the regulations adopted pursuant to this chapter
6 have been met.

7 (b) Each licensed program shall include, but not be limited to,
8 the following:

9 (1) For the alcohol or drug education and counseling services
10 programs specified in subdivision (b) of Section 11837, each
11 program shall provide for close and regular face-to-face interviews.
12 For the 18-month programs specified in subdivision (a) of Section
13 11837, each program shall provide for close and regular supervision
14 of the person, including face-to-face interviews at least once every
15 other calendar week, regarding the person's progress in the program
16 for the first 12 months of the program and shall provide only
17 community reentry supervision during the final six months of the
18 program. In the last six months of the 18-month program, the
19 provider shall monitor the participant's community reentry activity
20 with self-help groups, employment, family, and other areas of
21 self-improvement. Unless otherwise ordered by the court, the
22 provider's monitoring services are limited to not more than six
23 hours. For the 30-month programs specified in subdivision (b) of
24 Section 23548, subdivision (b) of Section 23552, and subdivision
25 (b) of Section 23568 of the Vehicle Code, each program shall
26 provide for close and regular supervision of the person, including
27 regular, scheduled face-to-face interviews over the course of 30
28 months regarding the person's progress in the program and
29 recovery from problem drinking, alcoholism, chemical dependency,
30 or polydrug abuse, as prescribed by regulations of the department.
31 The interviews in any of those programs shall be conducted
32 individually with each person being supervised and shall occur at
33 times other than when the person is participating in any group or
34 other activities of the program. ~~No~~ A program activity in which
35 the person is participating shall *not* be interrupted in order to
36 conduct the individual interviews. *Program activities shall not be*
37 *conducted through a program that is not licensed under Section*

1 *11836. Program activities shall not be completed through an*
2 *online, distant learning, or remote learning method.*

3 (2) (A) The department shall approve all fee schedules for the
4 programs and shall require that each program be self-supporting
5 from the participants' fees and that each program provide for the
6 payment of the costs of the program by participants at times and
7 in amounts commensurate with their ability to pay in order to
8 enable these persons to participate. Each program shall make
9 provisions for persons who can successfully document current
10 inability to pay the fees. Only the department may establish the
11 criteria and procedures for determining a participant's ability to
12 pay. The department shall ensure that the fees are set at amounts
13 that will enable programs to provide adequately for the immediate
14 and long-term continuation of services required pursuant to this
15 chapter. The fees shall be used only for the purposes set forth in
16 this chapter, except that any profit or surplus that does not exceed
17 the maximum level established by the department may be utilized
18 for any purposes allowable under any other provisions of law. In
19 its regulations, the department shall define, for the purposes of this
20 paragraph, taking into account prudent accounting, management,
21 and business practices and procedures, the terms "profits" and
22 "surplus." The department shall fairly construe these provisions
23 so as not to jeopardize fiscal integrity of the programs. The
24 department ~~may~~ *shall* not license ~~any~~ *a* program if the department
25 finds that any element of the administration of the program does
26 not assure the fiscal integrity of the program.

27 (B) Each program licensed by the department under this section
28 may request an increase in the fees. The request for an increase
29 shall initially be sent to the county alcohol and drug program
30 administrator. The county alcohol and drug program administrator
31 shall, within 30 days of receiving the request, forward it to the
32 department with the administrator's recommendation that the fee
33 increase be approved or disapproved.

34 (C) The administrator's recommendation shall, among other
35 things, take into account the rationale that the program has provided
36 to the administrator for the increase and whether that increase
37 would exceed the profit or surplus limit established by the
38 department.

39 (D) If the county alcohol and drug program administrator fails
40 to forward the request to the department within the 30 days, the

1 program may send the request directly to the department. In this
2 instance, the department may act without the administrator's
3 recommendation.

4 (E) The department shall, within 30 days of receiving the request
5 pursuant to subparagraph (B) or (D) approve or disapprove the
6 request. In making its decision, the department shall consider the
7 matters described in subparagraph (C).

8 (3) The licensed programs described in paragraph (1) shall
9 include a variety of treatment services for problem drinkers,
10 alcoholics, chemical dependents, and polydrug abusers or shall
11 have the capability of referring the persons to, and regularly and
12 closely supervising the persons while in, any appropriate medical,
13 hospital, or licensed residential treatment services or self-help
14 groups for their problem drinking, alcoholism, chemical
15 dependency, or polydrug abuse problem. In addition to the
16 requirements of paragraph (1), the department shall prescribe in
17 its regulations what other services the program shall provide, at a
18 minimum, in the treatment of participants, which services may
19 include lectures, classes, group discussions, group counseling, or
20 individual counseling in addition to the interviews required by
21 paragraph (1), or any combination ~~thereof~~ *of these services*.
22 However, any group discussion or counseling activity, other than
23 classes or lectures, shall be regularly scheduled to consist of not
24 more than 15 persons, except that they may, on an emergency
25 basis, exceed 15, but not more than 17, persons, at any one meeting.
26 At no time shall there be more than 17 persons in attendance at
27 any one meeting. For the 30-month programs specified in
28 subdivision (b) of Section 23548, subdivision (b) of Section 23552,
29 and subdivision (b) of Section 23568 of the Vehicle Code, each
30 licensed program shall include a method by which each participant
31 shall maintain a compendium of probative evidence, as prescribed
32 in the regulations of the department, on a trimonthly basis
33 demonstrating a performance of voluntary community service by
34 the participant, including, but not limited to, the prevention of
35 drinking and driving, the promotion of safe driving, and responsible
36 attitudes toward the use of chemicals of any kind, for not less than
37 120 hours and not more than 300 hours, as determined by the court,
38 with one-half of that time to be served during the initial 18 months
39 of program participation and one-half of that time to be served in
40 the final 12 months. In determining whether or not the participant

1 has met the objectives of the program, the compendium of evidence
2 shall also include, and the court shall consider, the participant's
3 demonstration of significant improvement in any of the following
4 areas of personal achievement:

5 (A) Significant improvement in occupational performance,
6 including efforts to obtain gainful employment.

7 (B) Significant improvement in physical and mental health.

8 (C) Significant improvement in family relations, including
9 financial obligations.

10 (D) Significant improvement in financial affairs and economic
11 stability.

12 The compendium of evidence shall be maintained by the
13 participant for review by the program, court, probation officer, or
14 other appropriate governmental agency. The program officials,
15 unless prohibited by the referring court, shall make provisions for
16 a participant to voluntarily enter, using the participant's own
17 resources, a licensed chemical dependency recovery hospital or
18 residential treatment program which has a valid license issued by
19 the State of California to provide alcohol or drug services, and to
20 receive three weeks of program participation credit for each week
21 of that treatment, not to exceed 12 weeks of program participation
22 credit, but only if the treatment is at least two weeks in duration.
23 The program shall document probative evidence of this hospital
24 or residential care treatment in the participant's program file.

25 (4) In order to assure program effectiveness, the department
26 shall require, whenever appropriate, that the licensed program
27 provides services to ethnic minorities, women, youth, or any other
28 group that has particular needs relating to the program.

29 (5) The goal of each program shall be to assist persons
30 participating in the program to recognize their chemical
31 dependency and to assist them in their recovery.

32 (6) Each program shall establish a method by which the court,
33 the Department of Motor Vehicles, and the person are notified in
34 a timely manner of the person's failure to comply with the
35 program's rules and regulations.

36 (c) ~~No~~ A program ~~may~~ *shall not* be licensed unless the county
37 complies with the requirements of subdivision (b) of Section 11812.
38 The provider of a program that offers an alcohol or drug education
39 and counseling services program, an 18-month program, or a
40 30-month program or any or all of those programs described in

1 this section shall be required to obtain only one license. The
2 department's regulations shall specify the requirements for the
3 establishment of each program. The license issued by the
4 department shall identify the program or programs licensed to
5 operate.

6 (d) (1) Departmental approval for the establishment of a
7 30-month program by a licensed 18-month program is contingent
8 upon approval by the county alcohol and drug program
9 administrator, based upon confirmation that the program applicant
10 is capable of providing the service and that the fiscal integrity of
11 the program applicant will not be jeopardized by the operation of
12 the program.

13 (2) The court shall refer a person to a 30-month treatment
14 program only if a 30-month program exists or is provided for in
15 the jurisdiction of the court.

16 (e) A county or program shall not prescribe additional program
17 requirements unless the requirements are specifically approved by
18 the department.

19 (f) The department may license a program on a provisional
20 basis.

21 *SEC. 2. Section 13352 of the Vehicle Code is amended to read:*

22 13352. (a) The department shall immediately suspend or
23 revoke the privilege of a person to operate a motor vehicle upon
24 the receipt of an abstract of the record of a court showing that the
25 person has been convicted of a violation of Section 23152 or 23153,
26 subdivision (a) of Section 23109, or Section 23109.1, or upon the
27 receipt of a report of a judge of the juvenile court, a juvenile traffic
28 hearing officer, or a referee of a juvenile court showing that the
29 person has been found to have committed a violation of Section
30 23152 or 23153 or subdivision (a) of Section 23109 or Section
31 23109.1. If an offense specified in this section occurs in a vehicle
32 defined in Section 15210, the suspension or revocation specified
33 below shall apply to the noncommercial driving privilege. The
34 commercial driving privilege shall be disqualified as specified in
35 Sections 15300 to 15302, inclusive. For the purposes of this
36 section, suspension or revocation shall be as follows:

37 (1) Except as required under Section 13352.1 or 13352.4, upon
38 a conviction or finding of a violation of Section 23152 punishable
39 under Section 23536, the privilege shall be suspended for a period
40 of six months. The privilege shall not be reinstated until the person

1 gives proof of financial responsibility and gives proof satisfactory
2 to the department of successful completion of a
3 driving-under-the-influence program licensed pursuant to Section
4 11836 of the Health and Safety Code described in subdivision (b)
5 of Section 23538. If the court, as authorized under paragraph (3)
6 of subdivision (b) of Section 23646, elects to order a person to
7 enroll in, participate in, and complete either program described in
8 subdivision (b) of Section 23542, the department shall require that
9 program in lieu of the program described in subdivision (b) of
10 Section 23538. For the purposes of this paragraph, enrollment in,
11 participation in, and completion of an approved program shall be
12 subsequent to the date of the current violation. Credit shall not be
13 given ~~to~~ for any program activities completed prior to the date of
14 the current violation. *Credit shall not be given for any activities*
15 *completed through a program not licensed pursuant to Section*
16 *11836 of the Health and Safety Code or for activities completed*
17 *through an online, distant learning, or remote learning method.*

18 (2) Upon a conviction or finding of a violation of Section 23153
19 punishable under Section 23554, the privilege shall be suspended
20 for a period of one year. The privilege shall not be reinstated until
21 the person gives proof of financial responsibility and gives proof
22 satisfactory to the department of successful completion of a
23 driving-under-the-influence program licensed pursuant to Section
24 11836 of the Health and Safety Code as described in subdivision
25 (b) of Section 23556. If the court, as authorized under paragraph
26 (3) of subdivision (b) of Section 23646, elects to order a person
27 to enroll in, participate in, and complete either program described
28 in subdivision (b) of Section 23542, the department shall require
29 that program in lieu of the program described in Section 23556.
30 For the purposes of this paragraph, enrollment, participation, and
31 completion of an approved program shall be subsequent to the date
32 of the current violation. Credit shall not be given ~~to~~ for any
33 program activities completed prior to the date of the current
34 violation. *Credit shall not be given for any activities completed*
35 *through a program not licensed pursuant to Section 11836 of the*
36 *Health and Safety Code or for activities completed through an*
37 *online, distant learning, or remote learning method.*

38 (3) Except as provided in Section 13352.5, upon a conviction
39 or finding of a violation of Section 23152 punishable under Section
40 23540, the privilege shall be suspended for two years. The privilege

1 shall not be reinstated until the person gives proof of financial
2 responsibility and gives proof satisfactory to the department of
3 successful completion of a driving-under-the-influence program
4 licensed pursuant to Section 11836 of the Health and Safety Code
5 as described in subdivision (b) of Section 23542. For the purposes
6 of this paragraph, enrollment in, participation in, and completion
7 of an approved program shall be subsequent to the date of the
8 current violation. Credit shall not be given ~~to~~ *for* any program
9 activities completed prior to the date of the current violation. *Credit*
10 *shall not be given for any activities completed through a program*
11 *not licensed pursuant to Section 11836 of the Health and Safety*
12 *Code or for activities completed through an online, distant*
13 *learning, or remote learning method.* The department shall advise
14 the person that he or she may apply to the department for a
15 restriction of the driving privilege, which may include credit for
16 a suspension period served under subdivision (c) of Section
17 13353.3, subject to the following conditions:

18 (A) Completion of 12 months of the suspension period, or
19 completion of 90 days of the suspension period if the underlying
20 conviction did not include the use of drugs as defined in Section
21 312 and the person was found to be only under the influence of an
22 alcoholic beverage at the time of the violation.

23 (B) The person satisfactorily provides, subsequent to the
24 violation date of the current underlying conviction, either of the
25 following:

26 (i) Proof of enrollment in an 18-month
27 driving-under-the-influence program licensed pursuant to Section
28 11836 of the Health and Safety Code.

29 (ii) Proof of enrollment in a 30-month
30 driving-under-the-influence program licensed pursuant to Section
31 11836 of the Health and Safety Code, if available in the county of
32 the person's residence or employment.

33 (C) The person agrees, as a condition of the restriction, to
34 continue satisfactory participation in the program described in
35 subparagraph (B).

36 (D) The person submits the "Verification of Installation" form
37 described in paragraph (2) of subdivision (g) of Section 13386.

38 (E) The person agrees to maintain the ignition interlock device
39 as required under subdivision (g) of Section 23575.

1 (F) The person provides proof of financial responsibility, as
2 defined in Section 16430.

3 (G) The person pays all reissue fees and any restriction fee
4 required by the department.

5 (H) The person pays to the department a fee sufficient to cover
6 the costs of administration of this paragraph, as determined by the
7 department.

8 (I) The restriction shall remain in effect for the period required
9 in subdivision (f) of Section 23575.

10 (4) Except as provided in this paragraph, upon a conviction or
11 finding of a violation of Section 23153 punishable under Section
12 23560, the privilege shall be revoked for a period of three years.
13 The privilege may not be reinstated until the person gives proof
14 of financial responsibility, and the person gives proof satisfactory
15 to the department of successful completion of a
16 driving-under-the-influence program licensed pursuant to Section
17 11836 of the Health and Safety Code, as described in paragraph
18 (4) of subdivision (b) of Section 23562 of this code. For the
19 purposes of this paragraph, enrollment in, participation in, and
20 completion of an approved program shall be subsequent to the date
21 of the current violation. Credit shall not be given ~~to~~ *for* any
22 program activities completed prior to the date of the current
23 violation. *Credit shall not be given for any activities completed*
24 *through a program not licensed pursuant to Section 11836 of the*
25 *Health and Safety Code or for activities completed through an*
26 *online, distant learning, or remote learning method.* The
27 department shall advise the person that after the completion of 12
28 months of the revocation period, which may include credit for a
29 suspension period served under subdivision (c) of Section 13353.3,
30 the person may apply to the department for a restricted driver's
31 license, subject to the following conditions:

32 (A) The person has satisfactorily completed, subsequent to the
33 violation date of the current underlying conviction, either of the
34 following:

35 (i) The initial 12 months of an 18-month
36 driving-under-the-influence program licensed pursuant to Section
37 11836 of the Health and Safety Code.

38 (ii) The initial 12 months of a 30-month
39 driving-under-the-influence program licensed pursuant to Section
40 11836 of the Health and Safety Code, if available in the county of

1 the person's residence or employment, and the person agrees, as
2 a condition of the restriction, to continue satisfactory participation
3 in that 30-month program.

4 (B) The person submits the "Verification of Installation" form
5 described in paragraph (2) of subdivision (g) of Section 13386.

6 (C) The person agrees to maintain the ignition interlock device
7 as required under subdivision (g) of Section 23575.

8 (D) The person provides proof of financial responsibility, as
9 defined in Section 16430.

10 (E) The person pays all applicable reinstatement or reissue fees
11 and any restriction fee required by the department.

12 (F) The restriction shall remain in effect for the period required
13 in subdivision (f) of Section 23575.

14 (5) Except as provided in this paragraph, upon a conviction or
15 finding of a violation of Section 23152 punishable under Section
16 23546, the privilege shall be revoked for a period of three years.
17 The privilege shall not be reinstated until the person files proof of
18 financial responsibility and gives proof satisfactory to the
19 department of successful completion of one of the following
20 programs: an 18-month driving-under-the-influence program
21 licensed pursuant to Section 11836 of the Health and Safety Code,
22 as described in subdivision (b) or (c) of Section 23548 of this code,
23 or, if available in the county of the person's residence or
24 employment, a 30-month driving-under-the-influence program
25 licensed pursuant to Section 11836 of the Health and Safety Code,
26 or a program specified in Section 8001 of the Penal Code. For the
27 purposes of this paragraph, enrollment in, participation in, and
28 completion of an approved program shall be subsequent to the date
29 of the current violation. Credit shall not be given ~~to~~ *for* any
30 program activities completed prior to the date of the current
31 violation. *Credit shall not be given for any activities completed*
32 *through a program not licensed pursuant to Section 11836 of the*
33 *Health and Safety Code or for activities completed through an*
34 *online, distant learning, or remote learning method.* The
35 department shall advise the person that he or she may apply to the
36 department for a restriction of the driving privilege, which may
37 include credit for a suspension period served under subdivision
38 (c) of Section 13353.3, subject to the following conditions:

39 (A) Completion of 12 months of the suspension period, or
40 completion of six months of the suspension period if the underlying

1 conviction did not include the use of drugs as defined in Section
2 312 and the person was found to be only under the influence of an
3 alcoholic beverage at the time of the violation.

4 (B) The person satisfactorily provides, subsequent to the
5 violation date of the current underlying conviction, either of the
6 following:

7 (i) Proof of enrollment in an 18-month
8 driving-under-the-influence program licensed pursuant to Section
9 11836 of the Health and Safety Code.

10 (ii) Proof of enrollment in a 30-month
11 driving-under-the-influence program licensed pursuant to Section
12 11836 of the Health and Safety Code, if available in the county of
13 the person's residence or employment, and the person agrees, as
14 a condition of the restriction, to continue satisfactory participation
15 in the 30-month driving-under-the-influence program.

16 (C) The person submits the "Verification of Installation" form
17 described in paragraph (2) of subdivision (g) of Section 13386.

18 (D) The person agrees to maintain the ignition interlock device
19 as required under subdivision (g) of Section 23575.

20 (E) The person provides proof of financial responsibility, as
21 defined in Section 16430.

22 (F) An individual convicted of a violation of Section 23152
23 punishable under Section 23546 may also, at any time after
24 sentencing, petition the court for referral to an 18-month
25 driving-under-the-influence program licensed pursuant to Section
26 11836 of the Health and Safety Code, or, if available in the county
27 of the person's residence or employment, a 30-month
28 driving-under-the-influence program licensed pursuant to Section
29 11836 of the Health and Safety Code. Unless good cause is shown,
30 the court shall order the referral.

31 (G) The person pays all applicable reinstatement or reissue fees
32 and any restriction fee required by the department.

33 (H) The person pays to the department a fee sufficient to cover
34 the costs of administration of this paragraph, as determined by the
35 department.

36 (I) The restriction shall remain in effect for the period required
37 in subdivision (f) of Section 23575.

38 (6) Except as provided in this paragraph, upon a conviction or
39 finding of a violation of Section 23153 punishable under Section
40 23550.5 or 23566, the privilege shall be revoked for a period of

1 five years. The privilege may not be reinstated until the person
2 gives proof of financial responsibility and gives proof satisfactory
3 to the department of successful completion of a
4 driving-under-the-influence program licensed pursuant to Section
5 11836 of the Health and Safety Code as described in subdivision
6 (b) of Section 23568, or if available in the county of the person's
7 residence or employment, a 30-month driving-under-the-influence
8 program licensed pursuant to Section 11836 of the Health and
9 Safety Code, or a program specified in Section 8001 of the Penal
10 Code. For the purposes of this paragraph, enrollment in,
11 participation in, and completion of an approved program shall be
12 subsequent to the date of the current violation. Credit shall not be
13 given to for any program activities completed prior to the date of
14 the current violation. *Credit shall not be given for any activities*
15 *completed through a program not licensed pursuant to Section*
16 *11836 of the Health and Safety Code or for activities completed*
17 *through an online, distant learning, or remote learning method.*
18 The department shall advise the person that after completion of
19 12 months of the revocation period, which may include credit for
20 a suspension period served under subdivision (c) of Section
21 13353.3, the person may apply to the department for a restricted
22 driver's license, subject to the following conditions:

23 (A) The person has satisfactorily provided, subsequent to the
24 violation date of the current underlying conviction, either of the
25 following:

26 (i) Completion of the initial 12 months of a 30-month
27 driving-under-the-influence program licensed pursuant to Section
28 11836 of the Health and Safety Code, if available in the county of
29 the person's residence or employment, and the person agrees, as
30 a condition of the restriction, to continue satisfactory participation
31 in the 30-month driving-under-the-influence program.

32 (ii) Completion of the initial 12 months of an 18-month
33 driving-under-the-influence program licensed pursuant to Section
34 11836 of the Health and Safety Code, if a 30-month program is
35 unavailable in the person's county of residence or employment.

36 (B) The person submits the "Verification of Installation" form
37 described in paragraph (2) of subdivision (g) of Section 13386.

38 (C) The person agrees to maintain the ignition interlock device
39 as required under subdivision (g) of Section 23575.

1 (D) The person provides proof of financial responsibility, as
2 defined in Section 16430.

3 (E) An individual convicted of a violation of Section 23153
4 punishable under Section 23566 may also, at any time after
5 sentencing, petition the court for referral to an 18-month
6 driving-under-the-influence program licensed pursuant to Section
7 11836 of the Health and Safety Code, or, if available in the county
8 of the person's residence or employment, a 30-month
9 driving-under-the-influence program licensed pursuant to Section
10 11836 of the Health and Safety Code. Unless good cause is shown,
11 the court shall order the referral.

12 (F) The person pays all applicable reinstatement or reissue fees
13 and any restriction fee required by the department.

14 (G) The restriction shall remain in effect for the period required
15 in subdivision (f) of Section 23575.

16 (7) Except as provided in this paragraph, upon a conviction or
17 finding of a violation of Section 23152 punishable under Section
18 23550 or 23550.5, or of a violation of Section 23153 punishable
19 under Section 23550.5, the privilege shall be revoked for a period
20 of four years. The privilege shall not be reinstated until the person
21 files proof of financial responsibility and gives proof satisfactory
22 to the department of successful completion of an 18-month
23 driving-under-the-influence program licensed pursuant to Section
24 11836 of the Health and Safety Code, or, if available in the county
25 of the person's residence or employment, a 30-month
26 driving-under-the-influence program licensed pursuant to Section
27 11836 of the Health and Safety Code, or a program specified in
28 Section 8001 of the Penal Code. For the purposes of this paragraph,
29 enrollment in, participation in, and completion of an approved
30 program shall be subsequent to the date of the current violation.
31 Credit shall not be given ~~to~~ *for* any program activities completed
32 prior to the date of the current violation. *Credit shall not be given*
33 *for any activities completed through a program not licensed*
34 *pursuant to Section 11836 of the Health and Safety Code or for*
35 *activities completed through an online, distant learning, or remote*
36 *learning method.* The department shall advise the person that after
37 completion of 12 months of the revocation period, which may
38 include credit for a suspension period served under subdivision
39 (c) of Section 13353.3, the person may apply to the department
40 for a restricted driver's license, subject to the following conditions:

1 (A) The person has satisfactorily completed, subsequent to the
2 violation date of the current underlying conviction, either of the
3 following:

4 (i) The initial 12 months of an 18-month
5 driving-under-the-influence program licensed pursuant to Section
6 11836 of the Health and Safety Code.

7 (ii) The initial 12 months of a 30-month
8 driving-under-the-influence program licensed pursuant to Section
9 11836 of the Health and Safety Code, if available in the county of
10 the person's residence or employment, and the person agrees, as
11 a condition of the restriction, to continue satisfactory participation
12 in the 30-month driving-under-the-influence program.

13 (B) The person submits the "Verification of Installation" form
14 described in paragraph (2) of subdivision (g) of Section 13386.

15 (C) The person agrees to maintain the ignition interlock device
16 as required under subdivision (g) of Section 23575.

17 (D) The person provides proof of financial responsibility, as
18 defined in Section 16430.

19 (E) An individual convicted of a violation of Section 23152
20 punishable under Section 23550 may also, at any time after
21 sentencing, petition the court for referral to an 18-month
22 driving-under-the-influence program licensed pursuant to Section
23 11836 of the Health and Safety Code, or, if available in the county
24 of the person's residence or employment, a 30-month
25 driving-under-the-influence program licensed pursuant to Section
26 11836 of the Health and Safety Code. Unless good cause is shown,
27 the court shall order the referral.

28 (F) The person pays all applicable reinstatement or reissue fees
29 and any restriction fee required by the department.

30 (G) The restriction shall remain in effect for the period required
31 in subdivision (f) of Section 23575.

32 (8) Upon a conviction or finding of a violation of subdivision
33 (a) of Section 23109 that is punishable under subdivision (e) of
34 that section or Section 23109.1, the privilege shall be suspended
35 for a period of 90 days to six months, if ordered by the court. The
36 privilege shall not be reinstated until the person gives proof of
37 financial responsibility, as defined in Section 16430.

38 (9) Upon a conviction or finding of a violation of subdivision
39 (a) of Section 23109 that is punishable under subdivision (f) of
40 that section, the privilege shall be suspended for a period of six

1 months, if ordered by the court. The privilege shall not be reinstated
2 until the person gives proof of financial responsibility, as defined
3 in Section 16430.

4 (b) For the purpose of paragraphs (2) to (9), inclusive, of
5 subdivision (a), the finding of the juvenile court judge, the juvenile
6 hearing officer, or the referee of a juvenile court of a commission
7 of a violation of Section 23152 or 23153 or subdivision (a) of
8 Section 23109 or Section 23109.1, as specified in subdivision (a)
9 of this section, is a conviction.

10 (c) A judge of a juvenile court, juvenile hearing officer, or
11 referee of a juvenile court shall immediately report the findings
12 specified in subdivision (a) to the department.

13 (d) A conviction of an offense in a state, territory, or possession
14 of the United States, the District of Columbia, the Commonwealth
15 of Puerto Rico, or Canada that, if committed in this state, would
16 be a violation of Section 23152, is a conviction of Section 23152
17 for the purposes of this section, and a conviction of an offense
18 that, if committed in this state, would be a violation of Section
19 23153, is a conviction of Section 23153 for the purposes of this
20 section. The department shall suspend or revoke the privilege to
21 operate a motor vehicle pursuant to this section upon receiving
22 notice of that conviction.

23 (e) For the purposes of the restriction conditions specified in
24 paragraphs (3) to (7), inclusive, of subdivision (a), the department
25 shall terminate the restriction imposed pursuant to this section and
26 shall suspend or revoke the person's driving privilege upon receipt
27 of notification from the driving-under-the-influence program that
28 the person has failed to comply with the program requirements.
29 The person's driving privilege shall remain suspended or revoked
30 for the remaining period of the original suspension or revocation
31 imposed under this section and until all reinstatement requirements
32 described in this section are met.

33 (f) For the purposes of this section, completion of a program is
34 the following:

35 (1) Satisfactory completion of all program requirements
36 approved pursuant to program licensure, as evidenced by a
37 certificate of completion issued, under penalty of perjury, by the
38 licensed program.

39 (2) Certification, under penalty of perjury, by the director of a
40 program specified in Section 8001 of the Penal Code, that the

1 person has completed a program specified in Section 8001 of the
2 Penal Code.

3 (g) The holder of a commercial driver's license who was
4 operating a commercial motor vehicle, as defined in Section 15210,
5 at the time of a violation that resulted in a suspension or revocation
6 of the person's noncommercial driving privilege under this section
7 is not eligible for the restricted driver's license authorized under
8 paragraphs (3) to (7), inclusive, of subdivision (a). *Credit shall*
9 *not be given for any program activity completed prior to the date*
10 *of the current conviction. Credit shall not be given for any activities*
11 *completed through a program not licensed pursuant to Section*
12 *11836 of the Health and Safety Code or for activities completed*
13 *through an online, distant learning, or remote learning method.*

14 SEC. 3. Section 23542 of the Vehicle Code is amended to read:

15 23542. (a) (1) If the court grants probation to a person
16 punished under Section 23540, in addition to the provisions of
17 Section 23600 and any other terms and conditions imposed by the
18 court, the court shall impose as conditions of probation that the
19 person be confined in county jail and fined under either of the
20 following:

21 (A) For at least 10 days, but not more than one year, and pay a
22 fine of at least three hundred ninety dollars (\$390), but not more
23 than one thousand dollars (\$1,000).

24 (B) For at least 96 hours, but not more than one year, and pay
25 a fine of at least three hundred ninety dollars (\$390), but not more
26 than one thousand dollars (\$1,000). A sentence of 96 hours of
27 confinement shall be served in two increments consisting of a
28 continuous 48 hours each. The two 48-hour increments may be
29 served nonconsecutively.

30 (2) The person's privilege to operate a motor vehicle shall be
31 suspended by the department under paragraph (3) of subdivision
32 (a) of Section 13352. The court shall require the person to surrender
33 the driver's license to the court in accordance with Section 13550.

34 (b) In addition to the conditions specified in subdivision (a), the
35 court shall require the person to do either of the following:

36 (1) Enroll and participate, for at least 18 months subsequent to
37 the date of the underlying violation and in a manner satisfactory
38 to the court, in a driving-under-the-influence program licensed
39 pursuant to Section 11836 of the Health and Safety Code, as
40 designated by the court. The person shall complete the entire

1 program subsequent to, and shall not be given any credit for any
2 program activities completed prior to, the date of the current
3 violation. *In addition, credit shall not be given for any activities*
4 *completed through a program not licensed pursuant to Section*
5 *11836 of the Health and Safety Code or for activities completed*
6 *through an online, distant learning, or remote learning method.*

7 The program shall provide for persons who cannot afford the
8 program fee pursuant to paragraph (2) of subdivision (b) of Section
9 11837.4 of the Health and Safety Code in order to enable those
10 persons to participate.

11 (2) Enroll and participate, for at least 30 months subsequent to
12 the date of the underlying violation and in a manner satisfactory
13 to the court, in a driving-under-the-influence program licensed
14 pursuant to Section 11836 of the Health and Safety Code. The
15 person shall complete the entire program subsequent to, and shall
16 not be given any credit for any program activities completed prior
17 to, the date of the current violation. *In addition, credit shall not*
18 *be given for any activities completed through a program not*
19 *licensed pursuant to Section 11836 of the Health and Safety Code*
20 *or for activities completed through an online, distant learning, or*
21 *remote learning method.*

22 (c) The court shall advise the person at the time of sentencing
23 that the driving privilege shall not be restored until proof
24 satisfactory to the Department of Motor Vehicles of successful
25 completion of a driving-under-the-influence program of the length
26 required under this code licensed pursuant to Section 11836 of the
27 Health and Safety Code has been received in the department's
28 headquarters.

29 (d) Whenever, when considering the circumstances taken as a
30 whole, the court determines that the person punished under this
31 section would present a traffic safety or public safety risk if
32 authorized to operate a motor vehicle during the period of
33 suspension imposed under paragraph (3) of subdivision (a) of
34 Section 13352, the court may disallow the issuance of a restricted
35 driver's license required under Section 13352.5.

36 (e) This section shall become operative on September 20, 2005.

37 *SEC. 4. Section 23548 of the Vehicle Code is amended to read:*

38 23548. (a) (1) If the court grants probation to any person
39 punished under Section 23546, in addition to the provisions of
40 Section 23600 and any other terms and conditions imposed by the

1 court, the court shall impose as conditions of probation that the
2 person be confined in the county jail for at least 120 days but not
3 more than one year and pay a fine of at least three hundred ninety
4 dollars (\$390) but not more than one thousand dollars (\$1,000).

5 (2) The person's privilege to operate a motor vehicle shall be
6 revoked by the department under paragraph (5) of subdivision (a)
7 of Section 13352. The court shall require the person to surrender
8 the driver's license to the court in accordance with Section 13550.

9 (b) In addition to subdivision (a), if the court grants probation
10 to any person punished under Section 23546, the court may order
11 as a condition of probation that the person participate, for at least
12 30 months subsequent to the underlying conviction and in a manner
13 satisfactory to the court, in a driving-under-the-influence program
14 licensed pursuant to Section 11836 of the Health and Safety Code.
15 In lieu of the minimum term of imprisonment specified in
16 subdivision (a), the court shall impose as a condition of probation
17 under this subdivision that the person be confined in the county
18 jail for at least 30 days but not more than one year. The court shall
19 not order the treatment prescribed by this subdivision unless the
20 person makes a specific request and shows good cause for the
21 order, whether or not the person has previously completed a
22 treatment program pursuant to paragraph (4) of subdivision (b) of
23 Section 23542 or paragraph (4) of subdivision (b) of Section 23562.
24 In order to enable all required persons to participate, each person
25 shall pay the program costs commensurate with the person's ability
26 to pay as determined pursuant to Section 11837.4 of the Health
27 and Safety Code. No condition of probation required pursuant to
28 this subdivision is a basis for reducing any other probation
29 requirement in this section or Section 23600 or for avoiding the
30 mandatory license revocation provisions of paragraph (5) of
31 subdivision (a) of Section 13352.

32 (c) In addition to the provisions of Section 23600 and
33 subdivision (a), if the court grants probation to any person punished
34 under Section 23546 who has not previously completed a treatment
35 program pursuant to paragraph (4) of subdivision (b) of Section
36 23542 or paragraph (4) of subdivision (b) of Section 23562, and
37 unless the person is ordered to participate in and complete a
38 driving-under-the-influence program under subdivision (b), the
39 court shall impose as a condition of probation that the person,
40 subsequent to the date of the current violation, enroll and

1 participate, for at least 18 months and in a manner satisfactory to
2 the court, in a driving-under-the-influence program licensed
3 pursuant to Section 11836 of the Health and Safety Code, as
4 designated by the court. The person shall complete the entire
5 program subsequent to, and shall not be given any credit for
6 program activities completed prior to, the date of the current
7 violation. *In addition, credit shall not be given for any activities*
8 *completed through a program not licensed pursuant to Section*
9 *11836 of the Health and Safety Code or for activities completed*
10 *through an online, distant learning, or remote learning method.*

11 Any person who has previously completed a 12-month or 18-month
12 program licensed pursuant to Section 11836 of the Health and
13 Safety Code shall not be eligible for referral pursuant to this
14 subdivision unless a 30-month licensed driving-under-the-influence
15 program is not available for referral in the county of the person's
16 residence or employment. The program shall provide for persons
17 who cannot afford the program fee pursuant to paragraph (2) of
18 subdivision (b) of Section 11837.4 of the Health and Safety Code
19 in order to enable those persons to participate. No condition of
20 probation required pursuant to this subdivision is a basis for
21 reducing any other probation requirement in this section or Section
22 23600 or for avoiding the mandatory license revocation provisions
23 of paragraph (5) of subdivision (a) of Section 13352.

24 (d) The court shall advise the person at the time of sentencing
25 that the driving privilege may not be restored until the person
26 provides proof satisfactory to the department of successful
27 completion of a driving-under-the-influence program of the length
28 required under this code that is licensed pursuant to Section 11836
29 of the Health and Safety Code.

30 (e) This section shall become operative on September 20, 2005.

31 *SEC. 5. Section 23552 of the Vehicle Code is amended to read:*

32 23552. (a) (1) If the court grants probation to a person
33 punished under Section 23550, in addition to the provisions of
34 Section 23600 and any other terms and conditions imposed by the
35 court, the court shall impose as conditions of probation that the
36 person be confined in a county jail for at least 180 days but not
37 more than one year and pay a fine of at least three hundred ninety
38 dollars (\$390) but not more than one thousand dollars (\$1,000).

39 (2) The person's privilege to operate a motor vehicle shall be
40 revoked by the department under paragraph (7) of subdivision (a)

1 of Section 13352. The court shall require the person to surrender
2 the driver's license to the court in accordance with Section 13550.

3 (b) In addition to subdivision (a), if the court grants probation
4 to any person punished under Section 23550, the court may order
5 as a condition of probation that the person *enroll and* participate,
6 for at least 30 months subsequent to the underlying ~~conviction~~
7 *violation* and in a manner satisfactory to the court, in a
8 driving-under-the-influence program licensed pursuant to Section
9 11836 of the Health and Safety Code. *Credit shall not be given*
10 *for any activities completed through a program not licensed*
11 *pursuant to Section 11836 of the Health and Safety Code or for*
12 *activities completed through an online, distant learning, or remote*
13 *learning method.* In lieu of the minimum term of imprisonment in
14 subdivision (a), the court shall impose as a condition of probation
15 under this subdivision that the person be confined in the county
16 jail for at least 30 days but not more than one year. The court shall
17 not order the treatment prescribed by this subdivision unless the
18 person makes a specific request and shows good cause for the
19 order, whether or not the person has previously completed a
20 treatment program pursuant to subdivision (b) of Section 23542
21 or paragraph (4) of subdivision (b) of Section 23562. In order to
22 enable all required persons to participate, each person shall pay
23 the program costs commensurate with the person's ability to pay
24 as determined pursuant to Section 11837.4 of the Health and Safety
25 Code. No condition of probation required pursuant to this
26 subdivision is a basis for reducing any other probation requirement
27 in this section or Section 23600 or for avoiding the mandatory
28 license revocation provisions of paragraph (7) of subdivision (a)
29 of Section 13352.

30 (c) In addition to Section 23600 and subdivision (a), if the court
31 grants probation to any person punished under Section 23550 who
32 has not previously completed a treatment program pursuant to
33 subdivision (b) of Section 23542 or paragraph (4) of subdivision
34 (b) of Section 23562, and unless the person is ordered to participate
35 in, and complete, a program under subdivision (b), the court shall
36 impose as a condition of probation that the person, subsequent to
37 the date of the current violation, enroll in and participate, for at
38 least 18 months and in a manner satisfactory to the court, in a
39 driving-under-the-influence program licensed pursuant to Section
40 11836 of the Health and Safety Code, as designated by the court.

1 The person shall complete the entire program subsequent to, and
2 shall not be given any credit for program activities completed prior
3 to, the date of the current violation. *In addition, credit shall not*
4 *be given for any activities completed through a program not*
5 *licensed pursuant to Section 11836 of the Health and Safety Code*
6 *or for activities completed through an online, distant learning, or*
7 *remote learning method.* A person who has previously completed
8 a 12-month or 18-month driving-under-the-influence program
9 licensed pursuant to Section 11836 of the Health and Safety Code
10 shall not be eligible for referral pursuant to this subdivision unless
11 a 30-month driving-under-the-influence program licensed pursuant
12 to Section 11836 of the Health and Safety Code is not available
13 for referral in the county of the person's residence or employment.
14 A condition of probation required pursuant to this subdivision is
15 not a basis for reducing any other probation requirement in this
16 section or Section 23600 or for avoiding the mandatory license
17 revocation provisions of paragraph (7) of subdivision (a) of Section
18 13352.

19 (d) The court shall advise the person at the time of sentencing
20 that the driving privilege may not be restored until the person
21 provides proof satisfactory to the department of successful
22 completion of a driving-under-the-influence program of the length
23 required under this code that is licensed pursuant to Section 11836
24 of the Health and Safety Code.

25 *SEC. 6. Section 23556 of the Vehicle Code is amended to read:*

26 23556. (a) (1) If the court grants probation to any person
27 punished under Section 23554, in addition to the provisions of
28 Section 23600 and any other terms and conditions imposed by the
29 court, the court shall impose as a condition of probation that the
30 person be confined in the county jail for at least five days but not
31 more than one year and pay a fine of at least three hundred ninety
32 dollars (\$390) but not more than one thousand dollars (\$1,000).

33 (2) The person's privilege to operate a motor vehicle shall be
34 suspended by the department under paragraph (2) of subdivision
35 (a) of Section 13352. The court shall require the person to surrender
36 the driver's license to the court in accordance with Section 13550.

37 (b) (1) In a county where the county alcohol program
38 administrator has certified, and the board of supervisors has
39 approved, a program or programs, the court shall also impose as
40 a condition of probation that the driver shall participate in, and

1 successfully complete, an alcohol and other drug education and
2 counseling program, established pursuant to Section 11837.3 of
3 the Health and Safety Code, as designated by the court.

4 (2) In any county where the board of supervisors has approved
5 and the State Department of Alcohol and Drug Programs has
6 licensed an alcohol and other drug education and counseling
7 program, the court shall also impose as a condition of probation
8 that the driver enroll in, participate in, and successfully complete,
9 a driving-under-the-influence program licensed pursuant to Section
10 11836 of the Health and Safety Code, ~~in the driver's county of~~
11 ~~residence or employment~~, as designated by the court. For the
12 purposes of this paragraph, enrollment in, participation in, and
13 completion of, ~~an approved a licensed~~ program shall be subsequent
14 to the date of the current violation. Credit ~~may~~ *shall* not be given
15 ~~to~~ *for* any program activities completed prior to the date of the
16 current violation. *Credit shall not be given for any activities*
17 *completed through a program not licensed pursuant to Section*
18 *11836 of the Health and Safety Code or for activities completed*
19 *through an online, distant learning, or remote learning method.*

20 (3) The court shall refer a first offender whose blood-alcohol
21 concentration was less than 0.20 percent, by weight, to participate
22 for three months or longer, as ordered by the court, in a licensed
23 program that consists of at least 30 hours of program activities,
24 including those education, group counseling, and individual
25 interview sessions described in Chapter 9 (commencing with
26 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
27 Code.

28 (4) The court shall refer a first offender whose blood-alcohol
29 concentration was 0.20 percent or more, by weight, or who refused
30 to take a chemical test, to participate for nine months or longer,
31 as ordered by the court, in a licensed program that consists of at
32 least 60 hours of program activities, including those education,
33 group counseling, and individual interview sessions described in
34 Chapter 9 (commencing with Section 11836) of Part 2 of Division
35 10.5 of the Health and Safety Code.

36 (c) (1) The court shall revoke the person's probation pursuant
37 to Section 23602, except for good cause shown, for the failure to
38 enroll in, participate in, or complete a program specified in
39 subdivision (b).

(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (A) failure to enroll in, or failure to successfully complete, the program, or (B) successful completion of the program as ordered.

(d) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until the person has provided proof satisfactory to the department of successful completion of a driving-under-the-influence program of the length required under this code that is licensed pursuant to Section 11836 of the Health and Safety Code.

(e) This section shall become operative on September 20, 2005.

SEC. 7. Section 23562 of the Vehicle Code is amended to read:

23562. If the court grants probation to a person punished under Section 23560, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 120 days and pay a fine of at least three hundred ninety dollars (\$390), but not more than five thousand dollars (\$5,000). The person's privilege to operate a motor vehicle shall be revoked by the department under paragraph (4) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) All of the following apply:

(1) Be confined in the county jail for at least 30 days, but not more than one year.

(2) Pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000).

(3) The privilege to operate a motor vehicle shall be revoked by the department under paragraph (4) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(4) Either of the following:

1 (A) Enroll and participate, for at least 18 months subsequent to
2 the date of the underlying violation and in a manner satisfactory
3 to the court, in a driving-under-the-influence program licensed
4 pursuant to Section 11836 of the Health and Safety Code, ~~if~~
5 ~~available in the county of the person's residence or employment,~~
6 as designated by the court. The person shall complete the entire
7 program subsequent to, and shall not be given any credit for
8 program activities completed prior to, the date of the current
9 violation. *Credit shall not be given for any activities completed*
10 *through a program not licensed pursuant to Section 11836 of the*
11 *Health and Safety Code or for activities completed through an*
12 *online, distant learning, or remote learning method.* The program
13 shall provide for persons who cannot afford the program fee
14 pursuant to paragraph (2) of subdivision (b) of Section 11837.4 of
15 the Health and Safety Code in order to enable those persons to
16 participate.

17 (B) Enroll and participate, for at least 30 months subsequent to
18 the date of the underlying violation and in a manner satisfactory
19 to the court, in a driving-under-the-influence program licensed
20 pursuant to Section 11836 of the Health and Safety Code, if
21 available in the county of the person's residence or employment.
22 The person shall complete the entire program subsequent to, and
23 shall not be given any credit for program activities completed prior
24 to, the date of the current violation.

25 (c) The court shall advise the person at the time of sentencing
26 that the driving privilege shall not be restored until the person has
27 provided proof satisfactory to the department of successful
28 completion of a driving-under-the-influence program of the length
29 required under this code that is licensed pursuant to Section 11836
30 of the Health and Safety Code.

31 (d) This section shall become operative on September 20, 2005.

32 *SEC. 8. Section 23568 of the Vehicle Code is amended to read:*

33 23568. (a) If the court grants probation to a person punished
34 under Section 23566, in addition to the provisions of Section 23600
35 and any other terms and conditions imposed by the court, the court
36 shall impose as conditions of probation that the person be confined
37 in the county jail for at least one year, that the person pay a fine
38 of at least three hundred ninety dollars (\$390) but not more than
39 five thousand dollars (\$5,000), and that the person make restitution
40 or reparation pursuant to Section 1203.1 of the Penal Code. The

1 person's privilege to operate a motor vehicle shall be revoked by
2 the department under paragraph (6) of subdivision (a) of Section
3 13352. The court shall require the person to surrender the driver's
4 license to the court in accordance with Section 13550.

5 (b) In addition to Section 23600 and subdivision (a), if the court
6 grants probation to a person punished under Section 23566, the
7 court shall impose as a condition of probation that the person enroll
8 in and complete, subsequent to the date of the underlying violation
9 and in a manner satisfactory to the court, an 18-month
10 driving-under-the-influence program licensed pursuant to Section
11 11836 of the Health and Safety Code or, if available in the county
12 of the person's residence or employment, a 30-month
13 driving-under-the-influence program licensed pursuant to Section
14 11836 of the Health and Safety Code, as designated by the court.
15 The person shall complete the entire program subsequent to, and
16 shall not be given any credit for program activities completed prior
17 to, the date of the current violation. *Credit shall not be given for*
18 *any activities completed through a program not licensed pursuant*
19 *to Section 11836 of the Health and Safety Code or for activities*
20 *completed through an online, distant learning, or remote learning*
21 *method.* In lieu of the minimum term of imprisonment in
22 subdivision (a), the court shall impose as a minimum condition of
23 probation under this subdivision that the person be confined in the
24 county jail for at least 30 days but not more than one year. Except
25 as provided in this subdivision, if the court grants probation under
26 this section, the court shall order the treatment prescribed by this
27 subdivision, whether or not the person has previously completed
28 a treatment program pursuant to subdivision (b) of Section 23542
29 or paragraph (4) of subdivision (b) of Section 23562. In order to
30 enable all required persons to participate, each person shall pay
31 the program costs commensurate with the person's ability to pay
32 as determined pursuant to Section 11837.4 of the Health and Safety
33 Code. No condition of probation required pursuant to this
34 subdivision is a basis for reducing any other probation requirement
35 in this section or Section 23600 or for avoiding the mandatory
36 license revocation provisions of paragraph (6) of subdivision (a)
37 of Section 13352.

38 (c) The court shall advise the person at the time of sentencing
39 that the driving privilege may not be restored until the person
40 provides proof satisfactory to the department of successful

1 completion of a driving-under-the-influence program of the length
2 required under this code that is licensed pursuant to Section 11836
3 of the Health and Safety Code.

4 ~~SECTION 1. The Legislature finds and declares that the right~~
5 ~~to privacy is fundamental to a free and civilized society and that~~
6 ~~the increasing use of electronic surveillance devices is eroding~~
7 ~~personal liberty. The Legislature declares that the electronic~~
8 ~~tracking of a person's location without that person's knowledge~~
9 ~~and consent violates that person's reasonable expectation of~~
10 ~~privacy.~~

11 ~~SEC. 2. Section 637.7 of the Penal Code is amended to read:~~

12 ~~637.7. (a) No person or entity in this state shall use or~~
13 ~~knowingly employ or engage a third party to use an electronic~~
14 ~~tracking device to determine the location or movement of a person~~
15 ~~without the consent of that person.~~

16 ~~(b) Subdivision (a) shall not apply to any of the following:~~

17 ~~(1) The legal owner, lessor, or lessee of a vehicle who has~~
18 ~~consented to the use of the electronic tracking device with respect~~
19 ~~to that vehicle.~~

20 ~~(2) The use of an electronic tracking device by a federal, state,~~
21 ~~or local law enforcement agency or individual law enforcement~~
22 ~~officer, acting in good faith, for a law enforcement purpose.~~

23 ~~(3) The use of an electronic tracking device by a parent or legal~~
24 ~~guardian or person having legal custody of a minor for purposes~~
25 ~~of tracking that minor, unless there is a court order in place~~
26 ~~prohibiting the parent, legal guardian, or other person having legal~~
27 ~~custody of the minor from contacting, directly or indirectly,~~
28 ~~harassing, following, surveilling, or stalking the minor.~~

29 ~~(4) The use of an electronic tracking device by a conservator~~
30 ~~of a legally incompetent person for the purposes of tracking that~~
31 ~~incompetent person provided that electronic tracking has been~~
32 ~~approved by a court. This exception shall not apply if there is a~~
33 ~~court order in place prohibiting a conservator of a legally~~
34 ~~incompetent person from contacting, directly or indirectly,~~
35 ~~harassing, following, surveilling, or stalking the incompetent~~
36 ~~person.~~

37 ~~(5) The use of an electronic tracking device by a commercial~~
38 ~~service provider, such as a wireless telephone service provider,~~
39 ~~when the electronic tracking device is used in support of the~~
40 ~~primary purpose of the commercial service being provided. This~~

1 paragraph shall apply only after the commercial service provider
2 has given notice of the use of the electronic tracking device to the
3 person utilizing the service. The notice shall describe the process
4 by which the commercial service provider may electronically track
5 the person and disclose for what purposes the provider is using
6 electronic tracking. The commercial service provider shall not sell,
7 distribute, transfer, or release any information gathered or collected
8 regarding a person from the electronic tracking device to any third
9 party or the person utilizing the service without a court order or
10 the written consent of the actual person being tracked.

11 (e) As used in this section, “electronic tracking device” means
12 any device attached to, placed on, or inserted into a vehicle,
13 wireless telephone, or other movable thing that reveals its location
14 or movement by the transmission of electronic or radio signals,
15 including, but not limited to, a global positioning system.

16 (d) A violation of this section is a misdemeanor punishable by
17 imprisonment in a county jail not to exceed six months, or by a
18 fine not to exceed two thousand five hundred dollars (\$2,500), or
19 by both that fine and imprisonment.

20 (e) A violation of this section by a person, business, firm,
21 company, association, partnership, or corporation licensed under
22 Division 3 (commencing with Section 5000) of the Business and
23 Professions Code shall constitute grounds for revocation of the
24 license issued to that person, business, firm, company, association,
25 partnership, or corporation, pursuant to the provisions that provide
26 for the revocation of the license as set forth in Division 3
27 (commencing with Section 5000) of the Business and Professions
28 Code.

29 (f) Notwithstanding subdivision (a), a person shall not require,
30 coerce, or compel any other individual to consent to undergo the
31 subcutaneous implanting of an electronic tracking device as those
32 terms are defined in subdivision (h) of Section 52.7 of the Civil
33 Code.

34 (g) It is not a defense to this section that the electronic tracking
35 device used by the person or entity failed to function properly.